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Convention on the Rights of the Child

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Committee on the Rights of the Child

Concluding observations on the combined second to fourth periodic reports of Switzerland*

I. Introduction

1. The Committee considered the combined second to fourth periodic reports of Switzerland (CRC/C/CHE/2–4) at its 1959th and 1961st meetings (see CRC/C/SR.1959 and 1961), held on 21 and 22 January 2015, and adopted the following concluding observations, at its 1983rd meeting, held on 30 January 2015.

2. The Committee welcomes the submission of the combined second to fourth periodic reports of the State party (CRC/C/CHE/2–4) and the written replies to its list of issues (CRC/C/CHE/Q/2–4/Add.1), which allowed for a better understanding of the situation of children's rights in the State party; however, the Committee regrets the considerable delay in the submission of the report. The Committee expresses its appreciation for the constructive dialogue held with the multisectoral delegation of the State party.

II. Follow-up measures undertaken and progress achieved by the State party

3. The Committee notes with appreciation the ratification of or accession to, inter alia, the:

- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in September 2006
- Convention on the Rights of Persons with Disabilities, in April 2014
- Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in September 2009
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, in September 2008
- International Labour Organization Convention No. 183 (2000) concerning the revision of the Maternity Protection Convention (Revised), 1952, in June 2014

* Adopted by the Committee at its sixty-eighth session (12–30 January 2015).

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- Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, in March 2014.

4. The Committee welcomes the entry into force of the following legislative measures, inter alia:

- Amendments to the Civil Code, as of 1 July 2014 (parental authority) and 1 January 2013 (Adult Protection Law, Law of Persons and Law of Children)
- Amendments to the Asylum Act, as of 1 February 2014
- Amendments to the Criminal Code, as of 1 July 2014
- Ordinance on the Placement of Foster Children, as of 1 January 2013
- Federal Act on Promotion of Children and Young People, as of 1 January 2013
- Swiss Criminal Procedure Code, as of 1 January 2011
- Juvenile Criminal Procedure Code, as of 1 January 2011
- Revised Federal Act on Foreign Nationals, as of 1 January 2011
- Federal Act on International Child Abduction and the Hague Conventions on the Protection of Children and Adults, as of 1 July 2009
- Revised Federal Victim Support Act, as of 1 January 2009
- Ordinance on Protection Measures for Children and Young People and on Strengthening Children's Rights, as of 1 August 2010
- Juvenile Criminal Law Act, as of 1 January 2007
- Revised Federal Vocational and Professional Education and Training Act, as of 1 January 2004
- Federal Act on the Elimination of Discrimination against People with Disabilities, as of 1 January 2004.

5. The Committee also welcomes the following institutional and policy measures, inter alia:

- Federal Department of Foreign Affairs Action Plan for the protection of children associated with armed forces or groups in armed conflicts (2014–2016)
- National Action Plan against Human Trafficking (2012–2014)
- National Programme on HIV and Other Sexually Transmitted Infections (2011–2017)
- Comprehensive Anti-Poverty Strategy for Switzerland, adopted in 2010, and the National Programme to Prevent and Fight Poverty (2014–2018), adopted in 2013
- Swiss Centre of Expertise in Human Rights, established in 2010
- Strategy for a Swiss Policy on Childhood and Youth, adopted in 2008
- Federal Bureau for the Equality of People with Disabilities, established in 2004.

III. Main areas of concern and recommendations

A. General measures of implementation (arts. 4, 42 and 44, para. 6, of the Convention)

Reservations

6. While welcoming the withdrawal by the State party of its reservations to articles 5, 7 and 40, para. 2 (b) (v)–(v of the Convention, the Committee regrets that the State party still maintains its reservations to articles 10, para. 1, 37 (c) and 40, para. 2, (b) (ii)–(iii).

7. **The Committee reiterates its previous recommendations (CRC/C/15/Add.182, para. 7) and in the light of the Vienna Declaration and Programme of Action, adopted at the World Conference on Human Rights in Vienna on 25 June 1993, urges the State party to consider withdrawing its remaining reservations to the Convention.**

Legislation

8. While welcoming the adoption of various child-related legislative measures at the federal and cantonal levels to ensure further conformity of domestic legislation with the Convention, the Committee is concerned that these efforts do not cover all areas of the Convention.

9. **The Committee recommends that the State party continue and strengthen its efforts to harmonize federal and cantonal laws comprehensively with the Convention.**

Comprehensive policy and strategy

10. The Committee notes that the State party issued the Strategy for a Swiss Policy on Childhood and Youth in 2008, which led to the adoption of the Federal Act on Promotion of Children and Young People in 2011, and that it has recently elaborated a report on the status of the children and youth policy. Nevertheless, the Committee remains concerned that the Strategy does not cover all areas under the Convention.

11. **The Committee recommends that the State party develop and implement, in consultation with children and civil society, a national policy and strategy for the overall realization of the principles and provisions of the Convention, thus providing a framework for cantonal plans and strategies. The Committee also recommends that the State party allocate adequate human, technical and financial resources for the implementation, monitoring and evaluation of that comprehensive policy and strategy and related plans or strategies at the cantonal level.**

Coordination

12. The Committee notes the challenges presented by the federal system of the State party and is concerned that the absence of overall coordination has resulted in significant disparities in the implementation of the Convention across the State party's cantons.

13. **The Committee recommends that the State party establish a coordinating body for the implementation of the Convention and the comprehensive policy and strategy with full capacity and authority, as well as the human, technical and financial resources, to coordinate effectively actions for children's rights across sectors and among the federal, cantonal and communal levels, with a view to achieving equal protection standards throughout its territory. The Committee also recommends that civil society organizations and children be invited to form part of the coordinating body.**

Allocation of resources

14. Bearing in mind that the State party is one of the most wealthy economies in the world and that it invests sizeable amounts of resources in child-related programmes, the Committee notes that the State party does not use a child-specific approach for budget planning and allocation in the federal and cantonal budgets, thus making it practically impossible to identify, monitor, report and evaluate the impact of investments in children and the overall application of the Convention in budgetary terms.

15. **The Committee recommends that the State party establish a budgeting process which adequately takes into account children's needs at the federal and cantonal levels, with clear allocations for children to the relevant sectors and agencies, specific indicators and a tracking system. In addition, the Committee recommends that the State party ensure effective monitoring and evaluation of the efficacy, adequacy and equitability of the distribution of resources allocated to the implementation of the Convention.**

Data collection

16. While noting the existence of various data collection systems, the Committee regrets that there is no comprehensive system for collecting data in the State party and that reliable, disaggregated data on important areas of the Convention, in particular concerning groups of children in vulnerable and marginalized situations, are not available.

17. **In the light of its general comment No. 5 (2003) on general measures of implementation of the Convention on the Rights of the Child and in line with its previous recommendations (CRC/C/15/Add.182, para. 18), the Committee strongly recommends that the State party expeditiously improve its data collection system. The data should cover all areas of the Convention and should be disaggregated by, inter alia, age, sex, disability, geographic location, ethnic and national origin and socioeconomic background in order to facilitate analysis of the situation of all children, particularly those in situations of vulnerability. Furthermore, the Committee recommends that the data and indicators be used for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention.**

Independent monitoring

18. While noting the establishment of the Swiss Centre of Expertise in Human Rights, the Committee remains concerned at the continued absence of a central, independent body to monitor the implementation of the Convention at all levels which is empowered to receive and address complaints of violations of children's rights.

19. **In the light of its general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child and in line with its previous recommendations (CRC/C/15/Add.182, para. 16), the Committee urges the State party to take measures to establish expeditiously an independent mechanism for monitoring human rights in general, and a specific mechanism for monitoring children's rights that is able to receive, investigate and address complaints by children in a child-sensitive manner, ensure the privacy and protection of victims, and undertake monitoring and follow-up activities for victims. Furthermore, the Committee recommends that the State party ensure the independence of such a monitoring mechanism, including with regard to its funding, mandate and immunities, so as to ensure full compliance with the Paris Principles.**

Dissemination, awareness-raising and training

20. While noting the various efforts made by the State party to disseminate information and provide training, such as the translation of the Convention into Romansh and the establishment of Foundation 21: Education for Sustainable Development, the Committee is concerned that the Convention is not very well known among children, parents and the public at large. The Committee is also concerned that training activities on children's rights for professionals working with or for children are not systematic or comprehensive.

21. **The Committee recommends that the State party:**

(a) Continue strengthening its awareness-raising programmes, including through encouraging greater media engagement in raising awareness of the Convention in a child-friendly manner, promoting the active involvement of children themselves in public outreach activities and ensuring targeted measures for parents;

(b) Develop systematic and ongoing training programmes on children's rights for all professionals working with and for children, such as judges, lawyers, law enforcement officials, civil servants, teachers, health personnel, including psychologists, and social workers.

Children's rights and the business sector

22. The Committee notes the information provided by the State party on measures taken and envisaged to regulate the activities of multinational business enterprises, including the development of the Ruggie Strategy for Switzerland. However, the Committee is concerned that the State party solely relies on voluntary self-regulation and does not provide a regulatory framework which explicitly lays down the obligations of companies acting under the State party's jurisdiction or control to respect the rights of the child in operations carried out outside the State party's territory.

23. **In the light of its general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights, the Committee recommends that the State party:**

(a) Establish a clear regulatory framework for industries operating in the State party, including through expediting the adoption of the Ruggie Strategy for Switzerland, to ensure that their activities do not negatively affect human rights or endanger environmental, labour and other standards, especially those relating to children's rights, and ensure its effective implementation;

(b) Ensure that business enterprises and their subsidiaries operating in or managed from the State party's territory are legally accountable for any violations of children's rights and human rights in general.

B. General principles (arts. 2–3, 6 and 12 of the Convention)

Non-discrimination

24. While welcoming the anti-discrimination measures adopted by the State party, particularly those aimed at promoting the integration of migrants, the Committee remains concerned that discrimination continues to be prevalent against children in marginalized and disadvantaged situations, including migrant, refugee and asylum-seeking children, children with disabilities and *sans-papiers* children. Moreover, the Committee is concerned about incidents of hate speech against lesbian, gay, bisexual, transgender and intersex persons and their impact on children belonging to these groups, as well as the fact that they

do not enjoy the protection afforded by article 261 bis of the Criminal Code relating to racial discrimination.

25. **The Committee recommends that the State party intensify its efforts to eliminate discrimination against children in marginalized and disadvantaged situations, in particular migrant, refugee and asylum-seeking children, children with disabilities and *sans-papiers* children. The Committee also recommends that the State party strengthen its efforts to foster a culture of tolerance and mutual respect, and that it adopt comprehensive legislation against discrimination on the grounds of sexual orientation and gender identity, and include these grounds in article 261 bis of the Criminal Code.**

Best interests of the child

26. While noting that the "well-being" of the child is a guiding principle in the State party's legal order, the Committee is of the view that the term "well-being" of the child is different in meaning and application from the best interests of the child as enshrined in the Convention. The Committee is therefore concerned that the best interests of the child (*l'intérêt supérieur de l'enfant*) have not been explicitly incorporated into all related federal and cantonal legislation, nor systematically applied in all administrative and judicial proceedings, or policies and programmes relating to children.

27. **In the light of its general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, the Committee recommends that the State party ensure that this right is appropriately integrated and consistently applied in all legislative, administrative and judicial proceedings and decisions, as well as in all policies, programmes and projects, that are relevant to and have an impact on children. In this regard, the State party is encouraged to develop procedures and criteria to provide guidance to all relevant persons in authority for determining the best interests of the child in every area and for giving them due weight as a primary consideration. Such procedures and criteria should be disseminated in courts of law and to administrative authorities and legislative bodies, public and private social welfare institutions, and the public at large.**

Respect for the views of the child

28. The Committee notes the State party's ongoing efforts to ensure respect for the views of the child in family proceedings, protection cases, juvenile justice and other relevant areas, as well as to involve children in political planning and decision-making processes at the municipal level. It is concerned, however, that respect for the views of the child is not systematically ensured and implemented in practice in all matters that affect children and that cantonal disparities exist in implementation. The Committee is also concerned about the insufficient training of professionals working with and for children in this regard.

29. **In the light of its general comment No. 12 (2009) on the right of the child to be heard, the Committee recommends that the State party take measures to strengthen this right in accordance with article 12 of the Convention. To that effect, it recommends that the State party:**

(a) Strengthen its efforts to ensure that the right of the child to be heard applies to all judicial and administrative proceedings affecting children and that due weight is given to their views;

(b) Intensify its efforts to ensure that children have the right to express their views freely in all matters affecting them, and have those views given due weight in schools and other educational institutions, and in the family, as well as in political

planning and decision processes, with particular attention to children in marginalized and disadvantaged situations;

(c) Ensure that professionals in the judicial, welfare and other sectors dealing with children systematically receive appropriate training on how to ensure the meaningful participation of children.

C. Civil rights and freedoms (arts. 7, 8 and 13–17 of the Convention)

Birth registration/name and nationality

30. While welcoming the various legal and policy measures taken by the State party to ensure the registration of all children, the Committee is concerned at reports about delays in registering children of foreign nationals. Moreover, the Committee is concerned that children born in the State party, who would otherwise be stateless, are not guaranteed the right to acquire Swiss nationality.

31. **The Committee recommends that the State party ensure that birth registration is available as soon as possible for all children, regardless of their parents' legal status and/or origin. The Committee also recommends that the State party ensure that all children born in its territory acquire Swiss nationality irrespective of the legal status of their parents, if they would otherwise be stateless, and ratify the 1961 Convention on the Reduction of Statelessness, the 1997 European Convention on Nationality and the 2009 Council of Europe Convention on the avoidance of Statelessness in relation to State Succession.**

Right to know and be cared for by parents

32. The Committee notes that according to article 268 (c) of the Swiss Civil Code on adoption, and article 27 of the Federal Act on Medically Assisted Reproduction, the child can only be informed of the identity of his or her biological parents on the condition that he or she has a "legitimate interest". The Committee remains concerned about whether the concept of "legitimate interest" is always in line with the best interests of the child.

33. **The Committee recommends that the State party intensify its efforts to ensure, as far as possible, respect for the right of an adopted child or a child born as a result of medically assisted procreation to know his or her origin. The Committee recommends in particular that the State party consider the removal of a reference to legitimate interests as a precondition for the child's right to request information regarding his or her biological origin.**

Right to identity

34. The Committee is deeply concerned about the absence of regulation and the increasing number of baby boxes that allow for the anonymous abandonment of children in the State party, which is in violation of, inter alia, articles 6 to 9 and 19 of the Convention.

35. **The Committee urges the State party to prohibit the use of baby boxes, to strengthen and promote the already existing alternatives and to consider introducing, as a last resort, the possibility of confidential hospital births.**

Access to appropriate information

36. The Committee notes the efforts of the State party to address the risks posed by digital media and information and communication technology (ICT) to the safety of children, including the five-year programme aimed at empowering young persons and

protecting them from risks associated with electronic media. However, the Committee is concerned that there are still gaps in the protection of children from these risks.

37. **The Committee recommends that the State party follow up on the measures recommended in the report of the Federal Council on young people and violence: effective prevention in the family, schools, social spaces and the media, and in particular:**

(a) Adopt and effectively implement human rights-based laws and policies to ensure that all children have access to digital media and ICT and enjoy the full protection of the Convention and its Optional Protocols in the online environment;

(b) Continue to encourage cooperation with ICT and other relevant industries and facilitate the development of voluntary, self-regulatory, professional and ethical guidelines and standards of conduct and other initiatives, such as technical solutions promoting online safety which are accessible to children;

(c) Continue to strengthen awareness-raising, information and education programmes to sensitize the public in general and parents and children in particular on opportunities and risks relating to the use of digital media and ICT.

D. Violence against children (arts. 19, 24, para. 3, 28, para. 2, 34, 37 (a) and 39)

Corporal punishment

38. While noting that there have been amendments to criminal and civil legislation which strengthen the protection of children from assault, the Committee regrets that corporal punishment is still not considered as physical violence if it does not exceed the level generally accepted by society, and that it is not explicitly prohibited in all settings.

39. **The Committee draws the attention of the State party to its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment, and urges the State party to prohibit explicitly all practices of corporal punishment in all settings and strengthen its efforts to promote positive, non-violent and participatory forms of child-rearing and discipline.**

Freedom of the child from all forms of violence

40. The Committee welcomes the various initiatives carried out by the State party to address violence against children, including the adoption of the Ordinance on Protection Measures for Children and Young People and on Strengthening Children's Rights and the revision of the Civil Code relating to the Adult Protection Law, Law of Persons and Law of Children. However, it remains concerned at the lack of comprehensive data and studies on children suffering from ill-treatment, abuse and neglect, sexual violence and domestic violence, as well as of a national child protection strategy and coordination among various cantonal programmes.

41. **The Committee recommends that the State party take into account its general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, and in particular that the State party:**

(a) Establish a national database on all cases of violence against children, including ill-treatment, child abuse and neglect and domestic violence;

(b) Further undertake studies to assess the prevalence and nature of violence against children, and develop a comprehensive strategy for prevention and intervention in cases of ill-treatment, abuse and neglect of children and domestic violence against them, including the provision of services for the recovery and social reintegration of victims;

(c) Evaluate the work of existing structures to address violence against children, and report on the results and measures taken in the next periodic report;

(d) Strengthen national coordination to address all forms of violence against children;

(e) Pay particular attention to and address the gender dimension of violence against children.

Harmful practices

42. While welcoming the adoption of a new provision of criminal law prohibiting genital mutilation, the Committee is deeply concerned at:

(a) The significant number of girls living in the State party who are affected or threatened by genital mutilation;

(b) Cases of medically unnecessary surgical and other procedures on intersex children, without their informed consent, which often entail irreversible consequences and can cause severe physical and psychological suffering, and the lack of redress and compensation in such cases.

43. **The Committee draws the attention of the State party to the joint recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices (2014), and urges the State party to:**

(a) Continue and strengthen preventive and protection measures to address the issue of female genital mutilation, including training of relevant professionals, awareness-raising programmes and the prosecution of perpetrators of these acts;

(b) In line with the recommendations of the National Advisory Commission on Biomedical Ethics on ethical issues relating to intersexuality, ensure that no one is subjected to unnecessary medical or surgical treatment during infancy or childhood, guarantee bodily integrity, autonomy and self-determination to the children concerned, and provide families with intersex children with adequate counselling and support.

E. Family environment and alternative care (arts. 5, 9–11, 18, paras. 1–2, 20, 21, 25 and 27, para. 4)

Family environment

44. While welcoming the measures adopted by the State party to provide support to parents in the fulfilment of their parental obligations, such as the adoption of the Federal Act on Financial Aid for Childcare outside the Family, the Committee remains concerned about the insufficient availability of different forms of family support, including day-care services.

45. **The Committee recommends that the State party strengthen its measures to support families, including by ensuring sufficient availability of high-quality care for children throughout its territory.**

46. The Committee notes that the State party's law prohibits surrogate motherhood and is aimed at discouraging surrogate motherhood arrangements made abroad. The Committee is nevertheless concerned about the uncertainty of the legal status of the child during the one-year period of assessment for possible adoption.

47. **The Committee recommends that the State party:**

(a) Accelerate the assessment procedure and ensure that the child is not stateless or discriminated against during the waiting period between his or her arrival in the State party and formal adoption;

(b) Ensure that the best interests of the child are the paramount consideration in the decision concerning adoption.

Children deprived of a family environment

48. While welcoming the revision of the Ordinance on the Placement of Foster Children, the Committee is concerned that:

(a) Reliable data and information on the situation of children placed in foster or institutional care are lacking;

(b) Large disparities exist between cantons regarding criteria for the selection, duration and review of placements of children and the quality of various forms of alternative care, including the support, training and monitoring of foster families and the implementation of care standards;

(c) The number of foster families is insufficient in some cantons;

(d) For children under the age of 3 only institutional care is available;

(e) Support to biological parents is limited when a child placed either in a foster family or an institution returns to his or her family.

49. **Drawing the State party's attention to the Guidelines for the Alternative Care of Children (General Assembly resolution 64/142, annex), the Committee recommends that the State party:**

(a) Establish mechanisms for collecting and systematically analysing information and disaggregated data on children in all alternative care settings;

(b) Ensure cooperation between the cantons in order to make it possible to place a child with a foster family in another canton, when necessary, while still respecting the right of the child to have contact with his or her biological family;

(c) Ensure that adequate safeguards and clear criteria, based on the best interests of the child, for determining whether a child should be placed in alternative care are applied throughout its territory;

(d) Strictly regulate and effectively enforce high-quality standards in alternative care settings throughout the State party, including through ensuring that adequate human, technical and financial resources are allocated to alternative care centres and relevant child protection services, and that systematic training in, and support for, child-rearing is provided for foster families;

(e) Ensure periodic review of the placement of children in foster care and institutions, and monitor the quality of care therein, including by providing accessible channels for reporting, monitoring and remedying maltreatment of children;

(f) Strengthen the promotion and recruitment of foster families;

(g) Ensure that alternative care for young children, especially those under the age of 3, is provided in family-based settings;

(h) Strengthen its support to parents when children placed in alternative care settings return to their families.

Adoption

50. While welcoming the revision of the Law on Adoption, the Committee is concerned about the considerable number of intercountry adoptions involving countries of origin that are not party to the 1993 Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, and the lack of data on adoptions from these countries. The Committee is also concerned that adoption procedures with regard to children from countries that are not party to the Hague Convention, including assessment of prospective adoptive parents and decision-making, do not always ensure the paramountcy of the child's best interests. The Committee is further concerned about the uncertainty of the legal statu. of children adopted from abroad by Swiss parents during the year before the adoption process is finalized.

51. **The Committee recommends that the State party:**

(a) Collect in a systematic and ongoing manner statistical data, disaggregated by age, sex and national origin, and relevant information on both domestic and intercountry adoption;

(b) Ensure that the paramountcy of the best interests of the child is strictly observed in intercountry adoptions and that all the safeguards provided in the 1993 Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption are met, even if the other country is not a party to that Convention;

(c) Accelerate the assessment procedure and ensure that a child adopted from abroad is not stateless or discriminated against during the waiting period between his or her arrival in the State party and formal adoption.

Children of incarcerated parents

52. While welcoming the establishment in the canton of Zurich of units where an incarcerated mother and her child can be accommodated together, the Committee is concerned about the lack of data on the number and situation of children who have a parent in prison, or of information on whether the continued relationship of a child with his or her imprisoned parent is sufficiently supported.

53. **With reference to the Committee's recommendations during its day of general discussion in 2011 on the rights of children of incarcerated parents, the Committee recommends that the State party collect data and undertake a study on the situation of children with a parent in prison in the State party, with a view to ensuring personal relations between children and the parent, including through regular visits and the provision of adequate services and appropriate support, in line with article 9 of the Convention, and that the best interests of the child are a primary consideration in all decisions taken.**

F. Disability, basic health and welfare (arts. 6, 18, para. 3, 23, 24, 26, 27, paras. 1–3, and 33)

Children with disabilities

54. The Committee welcomes the entry into force of the Federal Act on the Elimination of Discrimination against Persons with Disabilities and the adoption of the intercantonal agreement on cooperation in the area of specialized schooling. However, the Committee is concerned about:

(a) The lack of comprehensive data on children with disabilities, including children with autism spectrum disorders;

(b) The inadequate inclusion of those children in mainstream education in all cantons, and the insufficient human and financial resources allocated to ensure the adequate functioning of the system of inclusive education in practice;

(c) The lack of sufficient early childhood education and care and of inclusive vocational training opportunities for children with disabilities;

(d) Discrimination and segregation of children with autism spectrum disorders, especially in the canton of Geneva, in many aspects of their social life, including insufficient early childhood detection of autism spectrum, lack of intensive early developmental programmes, lack of access to mainstream education due notably to the absence of qualified professionals to provide specialized support to these children in mainstream schools, and insufficient training of professionals to deal with children with autism spectrum disorder;

(e) Reports that children with autism spectrum disorders, especially in the canton of Geneva, are subjected to inadequate treatment, such as the "packing" technique (wrapping the child in cold, wet sheets), which amounts to ill-treatment;

(f) Lack of information on measures taken to prevent the placement of children with disabilities in psychiatric units and to ensure that these children are not arbitrarily deprived of their right to be visited by their parents.

55. **In the light of its general comment No. 9 (2006) on the rights of children with disabilities, the Committee urges the State party to adopt a human rights-based approach to disability and specifically recommends that it:**

(a) Collect and analyse data on the situation of all children with disabilities, disaggregated by, inter alia, age, sex, type of disability, ethnic and national origin, geographic location and socioeconomic background;

(b) Strengthen its efforts to ensure State-wide inclusive education without discrimination, including through the allocation of the necessary resources, the adequate training of professionals and the provision of clear guidance to cantons that still apply a segregated approach;

(c) Promote inclusion rather than integration;

(d) Ensure that children with disabilities have access to early childhood education and care, early development programmes and inclusive vocational training opportunities in all cantons;

(e) Address the specific needs of children with autism spectrum disorders in all cantons, and in particular ensure that they are fully integrated into all areas of social life, including recreational and cultural activities, ensure that inclusive education adapted to their needs is given priority over special schooling and day care,

set up mechanisms for early detection, provide adequate training to professionals and ensure that these children benefit effectively from early development programmes which are based on scientific knowledge;

(f) Legally prohibit the practice of "packing" children and take the necessary measures to ensure that children with autism spectrum disorders are treated with dignity and respect and benefit from effective protection;

(g) Take all necessary measures to prevent children with disabilities from being placed in psychiatric units and ensure that these children are not arbitrarily deprived of their right to be visited by their parents.

Health and health services

56. While welcoming the reduced health insurance premiums for children by at least 50 per cent for families with low or medium incomes, the Committee is concerned that:

(a) The centralization of paediatric care is increasing and the number of family paediatricians, even though increasing, is not sufficient;

(b) Problems of overweight children and obesity among children are increasing, and advertising of food high in fat, sugar and salt on children's television programmes is excessive.

57. **The Committee draws the State party's attention to its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health, and recommends that the State party:**

(a) Ensure that children have access to high-quality paediatric hospital treatment and family paediatricians throughout its territory;

(b) Strengthen measures to address overweight children and obesity, promote a healthy lifestyle among adolescents, including physical activity, and take the necessary measures to reduce food marketing pressure on children with regard to food high in fat, sugar and salt.

Breastfeeding

58. The Committee notes as positive the fact that the majority of babies in the State party are breastfed during their first few months, as well as the adoption of new provisions on the remuneration of breastfeeding breaks. However, the Committee is concerned that:

(a) The rate of exclusive breastfeeding of babies up to the age of six months is low;

(b) The training of health professionals on the importance of exclusive breastfeeding is insufficient;

(c) Only 55 per cent of hospitals in the State party are baby-friendly;

(d) No national strategy on the feeding or breastfeeding of infants and young children exists;

(e) Only a few provisions of the International Code of Marketing of Breast-milk Substitutes have been fully implemented in national legislation and the marketing of breast-milk substitutes is solely based on a voluntary code of conduct;

(f) National recommendations on breastfeeding do not reflect relevant World Health Organization (WHO) recommendations.

59. **The Committee recommends that the State party:**

(a) Strengthen its efforts to promote exclusive and continued breastfeeding by providing access to materials and raising awareness concerning the importance of breastfeeding and the risks of formula feeding;

(b) Review and strengthen training for health professionals on the importance of exclusive breastfeeding;

(c) Further increase the number of hospitals certified as baby-friendly;

(d) Develop a comprehensive national strategy on feeding practices for infants and young children;

(e) Ensure that the International Code of Marketing of Breast-milk Substitutes is strictly enforced;

(f) Ensure that national recommendations on breastfeeding comply with relevant WHO recommendations;

(g) Consider extending maternity leave to a minimum of six months.

Mental health

60. The Committee is concerned about the excessive diagnosis of attention deficit hyperactivity disorder (ADHD) or attention deficit disorder (ADD) and the ensuing increase in the prescription of psychostimulant drugs to children, in particular methylphenidate, despite growing evidence of the harmful effects of these drugs, and about reports of children being threatened with expulsion from school if their parents do not accept treatment of the children with psychostimulant drugs.

61. **The Committee recommends that the State party:**

(a) Carry out research on non-drug approaches to the diagnosis and treatment of ADHD and ADD;

(b) Ensure that the relevant health authorities determine the root causes of inattention in the classroom and improve the diagnosis of mental health problems among children;

(c) Strengthen its support to families, including access to psychological counselling and emotional support, and ensure that children, parents, and teachers and other professionals working with and for children are provided with adequate information on ADHD and ADD;

(d) Take the necessary measures to prevent any pressure on children and parents to accept treatment with psychostimulant drugs.

Suicide

62. The Committee remains concerned about the high number of suicides among adolescents.

63. **In the light of its general comment No. 4 (2003) on adolescent health and development, the Committee recommends that the State party expedite the adoption of the national action plan on the prevention of suicide, which should take into account the specific needs of children and adolescents, and ensure its effective implementation.**

Standard of living

64. While welcoming the entry into force in 2009 of the Federal Act on Family Allowances and other measures taken to address poverty, including the adoption of the

Comprehensive Anti-Poverty Strategy for Switzerland and the National Programme to Prevent and Fight Poverty (2014–2018), the Committee is concerned that supplementary benefits for families, including social assistance, remain low in some cantons.

65. **The Committee recommends that the State party further strengthen its system of family allowances and benefits with a view to ensuring that all children, including children of refugee, asylum-seeking and migrant parents, have an adequate standard of living throughout its territory.**

G. Education, leisure and cultural activities (arts. 28–31)

Human rights education

66. The Committee is concerned that human rights education for children at school is not carried out systematically in all cantons.

67. **The Committee recommends that the State party ensure that mandatory modules on the Convention and human rights in general are included in the harmonized school curricula for linguistic regions.**

H. Special protection measures (arts. 22, 30, 32, 33, 35, 36, 37 (b)–(d), 38–40)

Asylum-seeking, refugee and *sans-papiers* children

68. While welcoming the entry into force in 2014 of the revision of the Asylum Act which requires priority treatment of asylum applications from unaccompanied children, the Committee remains concerned that the asylum procedure for unaccompanied children is not always guided by their best interests and, in relation to the reservation made to article 10 of the Convention, that the right to family reunification for persons granted provisional admission is too restricted. Moreover, the Committee is concerned that:

(a) Considerable cantonal disparities exist in relation to reception conditions, integration support and welfare for asylum-seeking and refugee children, with children being placed in, for instance, military or nuclear bunkers;

(b) "Persons of trust" for unaccompanied asylum-seeking children are not required to be experienced in child care or child-rights matters;

(c) Asylum-seeking children face difficulties in accessing secondary education and there is no harmonized practice in granting authorizations for them to take up vocational training;

(d) The accelerated asylum procedure, which is also carried out at airports, may be applied to children;

(e) A considerable number of *sans-papiers* children (children without legal residence status) live in the State party and they face many difficulties in accessing, inter alia, health care, education, in particular secondary education, and vocational training, and there is a lack of strategies on how to address these issues.

69. **The Committee recommends that the State party:**

(a) Ensure that the asylum procedure fully respects the special needs and requirements of children and is always guided by their best interests;

(b) Review its system for family reunification, in particular for persons granted provisional admission;

(c) Apply minimum standards for reception conditions, integration support and welfare for asylum seekers and refugees, in particular children, throughout its territory, and ensure that all reception and care centres for asylum-seeking and refugee children are child-friendly and conform to applicable United Nations standards;

(d) Ensure that "persons of trust" are properly trained to work with unaccompanied asylum-seeking children;

(e) Ensure that asylum-seeking children have effective and non-discriminatory access to education and vocational training;

(f) Exempt unaccompanied asylum-seeking children from the accelerated asylum procedure and establish safeguards to ensure that the right of the child to have his or her best interests taken as a primary consideration is always respected;

(g) Develop policies and programmes to prevent the social exclusion of and discrimination against *sans-papiers* children and allow these children to fully enjoy their rights, including by ensuring access to education, health care and welfare services in practice.

Follow up to the Committee's previous concluding observations and recommendations on the Optional Protocol on children in armed conflict

70. While welcoming the revision of the Military Penal Code which establishes a limited universality principle for the prosecution of war crimes, and the adoption of the Federal Department of Foreign Affairs Action Plan for the protection of children associated with armed forces or groups in armed conflicts (2014–2016), the Committee remains concerned that the recruitment of children by non-State armed groups is not explicitly criminalized and that statistical data on asylum-seeking, refugee and migrant children who may have been involved in armed conflict abroad are lacking.

71. **The Committee recommends that the State party explicitly criminalize the recruitment of children by non-State armed groups and improve its data collection system in that regard.**

Administration of juvenile justice

72. The Committee notes the entry into force of the new Juvenile Criminal Law Act in 2007 and the Juvenile Criminal Procedure Code in 2011, which inter alia raise the minimum age of criminal responsibility from 7 to 10 and provide for the separation of children from adults in pretrial detention and imprisonment. However, the Committee is concerned that:

(a) The minimum age of criminal responsibility still remains below internationally acceptable standards;

(b) Free legal aid for children is not always ensured;

(c) Still only a few defence lawyers are specialized in juvenile criminal law and procedures;

(d) Children are still not separated from adults in detention centres.

73. **In the light of its general comment No. 10 (2007) on children's rights in juvenile justice, the Committee urges the State party to bring its juvenile justice system fully into line with the Convention and other relevant standards. In particular, the Committee urges the State party to:**

(a) Raise the minimum age of criminal responsibility to an internationally acceptable level;

(b) Ensure that children have access to free legal or other appropriate assistance;

(c) Ensure that all persons involved in the administration of juvenile justice, including defence lawyers, receive appropriate training;

(d) Expedite the process of establishing adequate detention facilities in order to ensure that children are not detained with adults.

I. Ratification of the Optional Protocol on a communications procedure

74. **The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.**

J. Ratification of international human rights instruments

75. **The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.**

K. Cooperation with regional bodies

76. **The Committee recommends that the State party cooperate with the Council of Europe on the implementation of the Convention and other human rights instruments, both in the State party and in other Council of Europe member States.**

IV. Implementation and reporting

A. Follow-up and dissemination

77. **The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented. The Committee also recommends that the combined second to fourth periodic reports, the written replies of the State party and the present concluding observations be made widely available in the languages of the country.**

B. Next report

78. **The Committee invites the State party to submit its combined fifth and sixth periodic reports by 25 September 2020 and to include therein information on the follow-up to the present concluding observations. The report should be in compliance with the Committee's harmonized treaty-specific reporting guidelines adopted on 1 October 2010 (CRC/C/58/Rev.2 and Corr.1) and should not exceed 21,200 words (see General Assembly resolution 68/268, para. 16). In the event that a report exceeding the established word limit is submitted, the State party will be asked to shorten the report in accordance with the above-mentioned resolution. If the State party is not in a position to review and resubmit the report, translation of the report for the purposes of consideration by the treaty body cannot be guaranteed.**

79. **The Committee also invites the State party to submit an updated core document in accordance with the requirements for the common core document in the harmonized guidelines on reporting, approved at the fifth inter-committee meeting of the human rights treaty bodies in June 2006 (HRI/GEN/2/Rev.6, chap. I). The word limit for the common core document, as established by the General Assembly in paragraph 16 of its resolution 68/268, is 42,400 words.**